

§ 59.40

that the site of the project is in reasonable proximity to a sufficient concentration and population of veterans that are 65 years of age and older and that there is a reasonable basis to conclude that the facility when complete will be fully occupied. This documentation must be included in the initial application submitted to VA under § 59.20.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.40 Maximum number of nursing home care and domiciliary care beds for veterans by State.

(a) Except as provided in paragraph (b) of this section, a state may not request a grant for a project to construct or acquire a new state home facility, to increase the number of beds available at a state home facility, or to replace beds at a state home facility if the project would increase the total number of state home nursing home and domiciliary beds in that state beyond the maximum number designated for that state, as shown in the following chart. The provisions of 38 U.S.C. 8134 require VA to prescribe for each state the number of nursing home and domiciliary beds for which grants may be furnished (*i.e.*, the unmet need). A state's unmet need for state home nursing home and domiciliary beds is the number in the following chart for that state minus the sum of the number of nursing home and domiciliary beds in operation at state home facilities and the number of state home nursing home and domiciliary beds not yet in operation but for which a grant has either been requested or awarded under this part.

State	Maximum number of state home, nursing home & domiciliary beds based on 2020 projections
Alabama	1007
Alaska	179
Arizona	1520
Arkansas	653
California	4363
Colorado	1114
Connecticut	559
Delaware	207
District of Columbia	83
Florida	4049
Georgia	1975
Hawaii	268

38 CFR Ch. I (7–1–13 Edition)

State	Maximum number of state home, nursing home & domiciliary beds based on 2020 projections
Idaho	394
Illinois	1754
Indiana	1216
Iowa	578
Kansas	518
Kentucky	818
Louisiana	638
Maine	362
Maryland	1102
Massachusetts	944
Michigan	1786
Minnesota	1058
Mississippi	480
Missouri	1257
Montana	281
Nebraska	371
Nevada	649
New Hampshire	361
New Jersey	992
New Mexico	417
New York	2209
North Carolina	1900
North Dakota	137
Ohio	2143
Oklahoma	766
Oregon	907
Pennsylvania	2336
Puerto Rico	288
Rhode Island	157
South Carolina	1089
South Dakota	179
Tennessee	1311
Texas	4119
Utah	426
Vermont	142
Virginia	1903
Virgin Islands	12
Washington	1687
West Virginia	406
Wisconsin	1062
Wyoming	154
American Samoa	0
Guam	12
N. Mariana Islands	1

NOTE TO PARAGRAPH (a): The provisions of 38 U.S.C. 8134 require that the “un-met need” numbers be based on a 10-year projection of demand for nursing home and domiciliary care by veterans who at such time are 65 years of age or older and who reside in that state. In determining the projected demand, VA must take into account travel distances for veterans and their families.

(b) A State may request a grant for a project that would increase the total number of State nursing home and domiciliary beds beyond the maximum number for that State, if the State submits to VA, documentation to establish a need for the exception based on travel distances of at least two hours (by land transportation or any other usual mode of transportation if land

Department of Veterans Affairs

§ 59.50

transportation is not available) between a veteran population center sufficient for the establishment of a State home and any existing State home. The determination regarding a request for an exception will be made by the Secretary.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

[66 FR 33847, June 26, 2001, as amended at 75 FR 17860, Apr. 8, 2010]

§ 59.50 Priority list.

(a) The Secretary will make a list prioritizing the applications that were received on or before April 15 and that were approved under § 59.20 of this part. Except as otherwise provided in this section, applications will be prioritized from the highest to the lowest in the following order:

(1) *Priority group 1.* An application from a State that has made sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State (such as subsequent issuance of bonds) to make such funds available for the project. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available (such as further action to issue bonds). If the certification is based on an Act authorizing the project and making available the State's matching funds for the project, a copy of the Act must be submitted with the certification.

(i) *Priority group 1—subpriority 1.* An application for a life or safety project, which means a project to remedy a condition, or conditions, at an existing facility that have been cited as threatening to the lives or safety of one or more of the residents or program participants in the facility by a VA safety office, VA engineering office, or other VA office with responsibility for life and safety inspections; a State or local government agency (including a Fire Marshal); or an accrediting institution (including the Joint Commission on Accreditation of Healthcare Organiza-

tions). Unless an addition or replacement of building utility systems or features is necessary to remedy a cited threat to the lives or safety of residents and program participants, this priority group does not include applications for the addition or replacement of building utility systems or features; such applications will be prioritized in accordance with the criteria in subpriority group 5 of priority group 1. An application may be included in this subpriority group only if all of the funds requested would be used for a life or safety project; or, if the estimated cost of the life or safety project is under \$400,000.00, and the majority of the funds requested would be used for such a project. Projects in this subpriority group will be further prioritized in the following order:

(A) Seismic;
(B) Building construction;
(C) Egress;
(D) Building compartmentalization (e.g., smoke barrier, fire walls);
(E) Fire alarm/detection;
(F) Security;
(G) Asbestos/hazardous materials; and
(H) All other projects (e.g., nurse call systems, patient lifts).

(ii) *Priority group 1—subpriority 2.* An application from a State that has not previously applied for a grant under 38 U.S.C. 8131–8137 for construction or acquisition of a State nursing home.

(iii) *Priority group 1—subpriority 3.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a great need for the beds that the State, in that application, proposes to establish.

(iv) *Priority group 1—subpriority 4.* An application from a State for renovations to a State Home facility other than renovations that would be included in subpriority group 1 of priority group 1. Projects will be further prioritized in the following order:

(A) Adult day health care renovation and construction of a new adult day health care facility that replaces an existing facility;

(B) Nursing home renovation (e.g., patient privacy) and construction of a new nursing home that replaces an existing nursing home;